

Message Text

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67

ACTION L-03

INFO OCT-01 EUR-25 EA-11 IO-14 ISO-00 AF-10 ARA-16 NEA-14

RSC-01 CIAE-00 DODE-00 PM-07 H-03 INR-11 NSAE-00

NSC-07 PA-04 PRS-01 SP-03 SS-20 USIA-15 ACDA-19 AEC-11

OIC-04 DPW-01 SAJ-01 SAM-01 AID-20 SR-02 ORM-03 SCA-01

DRC-01 /230 W

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FM AMEMBASSY BERN

TO SECSTATE WASHDC 9619

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY SAIGON

AMEMBASSY VIENNA

USMISSION USUN NEW YORK

USMISSION GENEVA

USDEL JEC PARIS

UNCLAS BERN 3647

PASS SALT, CCD, CSCE AND MBFR DELS

FROM USDEL LUCERNE ICRC CONFERENCE ON WEAPONS

E.O. 11652: N/A

TAGS: ICRC, PARM

SUBJECT: ICRC CONFERENCE ON WEAPONS

1. SUMMARY: ICRC CONFERENCE OF GOVERNMENT EXPERTS
ON THE USE OF CERTAIN CONVENTIONAL WEAPONS OPENED
SEPTEMBER 24, 1974, IN LUCERNE WITH PICTENT (ICRC)
ELECTED AS PRESIDENT. FORTY-SEVEN COUNTRIES PRESENT,
WITH LARGEST NUMBER FROM WEST. FIRST DAY DEVOTED TO
DISCUSSION OF PRG NON-INVITATION. SEPT 25-26
DEOVTD TO DISCUSSION OF LEGAL CRITERIA. BUREAU
ESTABLISHED SEPT 25-26. DEBATE ON INCENDIARY WEAPONS
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OPENED SEPT 26. END SUMMARY.

2. PRG NON-INVITATION ISSUE: DRV GAVE POLEMIC AND LENGTHY STATEMENT ARGUING THAT PRG SHOULD BE INVITED. PICTET SAID ICRC HAD ACTED MORE THAN FAIRLY, HAD CONSULTED GOVERNMENTS, AND CLEAR MAJORITY AGAINST PRG INVITATION; PICTET SAID DECISION NOT TO INVOTE NOT REPEAT NOT OPEN TO CHANGE, BUT SAID HE WOULD PERMIT EXPRESSIONS OF REGRET. USSR, ALGERIA, CUBA, EGYPT, SENEGAL, GDR, ROMANIA, AND ZAIRE EXPRESSED REGRETS WITH PREDICABLE DEGREE OF EMOTION AND POLEMIC. SWEDEN SAID IT NEITHER OPPOSED NOR SUPPORTED ATTENDANCE BY EITHER "GOVERNMENT" FROM SOUTH VIETNAM AND WOULD HAVE ABSTAINED ON ANY VOTE. FRG AND US NOTED THAT POLITICAL OR CONTROVERSIAL STATEMENTS VIOLATED RULES OF PROCEDURE. US SAID WE AGREED WITH PICTET THAT MATTER SETTLED; WE ALSO REJECTED DRV CHARGES AGAINST USG CONCERNING ACTIVITIES IN VIETNAM AS BOTH WITHOUT FOUNDATION AND OUT OF ORDER.

3. INTENSE PRIVATE NEGOTIATION RESULTED IN ELECTION OF FOLLOWING VICE PRESIDENTS BY CONSENSUS ON SEPTEMBER 25: CANADA (MILLER); EGYPT (EL-ERIAN); FRANCE (FRICAUD-CHAGNAUD); INDONESIA (CHASPURI); GDR (HUGLER); SWEDEN (BLIX); VENEZUELA (MENA); ZAIRE (MAKELELE).

4. INTENSE PRIVATE NEGOTIATIONS ALSO RESULTED IN FOLLOWING AGREEMENT, ACCEPTED BY CONSENSUS ON SEPTEMBER 26, ON POST OF RAPPOREUR: SMALL COMMITTEE ESTABLISHED TO WRITE REPORT. KARLSHOVEN (NETHERLANDS LEGAL EXPERT) IN CHARGE. ADDITIONAL MEMBERS ARE RYTZ (SWISS MILITARY EXPERT) AND ARDAEH (NEW ZEALAND MEDICAL EXPERT). IN ADDITION, IT AGREED THAT THIS COMMITTEE WOULD BE "OPEN-ENDED" IN SENSE THAT OTHER EXPERTS FREE TO PARTICIPATE. (US EXPERTS THUS INTEND TO PARTICIPATE ACTIVELY).

5. DEBATE ON LEGAL CRITERIA BEGAN SEPTEMBER 25 WITH PRESENTATION OF A COMPREHENSIVE PAPER BY UK WHICH EMPHASIZED DEVELOPMENT OF EXISTING LAW. DETAILED PAPER SUGGESTED AMONG MANY OTHER KEY POINTS THAT 1907 ENGLISH TRANSLATION OF HAGUE REGULATION 23E "CALCULATED TO CAUSE UNNECESSARY SUFFERING" WAS NOT AS ACCURATE AS UNCLASSIFIED

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1899 ENGLISH VERSION "OF NATURE TO CAUSE SUPERFLOUS INJURY." SUGGESTION THAT ANY NEW FORMULATION BE BASED ON 1899 VERSION RECEIVED SOME SUPPORT. US EXPERTS STATED THAT "CALCULATED" WAS USEFUL AS A CHECK ON WEAPONS DESIGNERS. SWEDES, WHILE REJECTING "CALCULATED" WISHED TO RETAIN "SUFFERING" CRITERIA IN CONJUNCTION WITH INJURY.

6. THERE WAS GENERAL AGREEMENT THAT BASIC TEST OF UNNECESSARY SUFFERING REQUIRES COMPARING SUFFERING WITH MILITARY UTILITY OF WEAPONS. BUT THERE WAS CONSIDERABLE DIVERGENCE AS TO RELATIVE WEIGHT TO BE GIVEN MILITARY AND HUMANITARIAN SIDES OF THE EQUATION AND AS TO WHAT FACTORS SHOULD BE CONSIDERED COMPONENTS OF MILITARY UTILITY.

7. UK, AUSTRALIAN AND SEVERAL OTHER DELEGATIONS EXPRESSED DOUBT THAT PRESENT LAW HAD DEVELOPED TO INCLUDE "INDISCRIMINATE EFFECT" CRITERIA. MANY ARGUED THAT ANY FORMULATION OF CRITERION SHOULD FOCUS ON THE INDISCRIMINATE USE OF THE WEAPON RATHER THAN ON GENERAL PROHIBITION OF THAT WEAPON. THERE APPEARS GENERAL AGREEMENT THAT TREACHERY OR PERFIDY IS GERMANE ONLY TO USE OF WEAPONS, NOT TO WEAPONS PER SE.

8. BLIX (SWEDEN) AND SEVERAL OTHERS SOUGHT TO ESTABLISH 1973 ICRC REPORT AS AUTHORITATIVE DOCUMENTARY BASE FOR CONFERENCE. CANADIAN AND UK DELEGATION EFFECTIVELY REFUTED THIS, AND CHAIRMAN ACKNOWLEDGED THAT 1973 REPORT WAS MERELY A DOCUMENT FOR CONSIDERATION AND SUBJECT TO CRITICAL REVIEW.

9. SOVIETS MADE TWO INTERVENTIONS. ONE EMPHASIZED THAT SECURITY NEEDS OF STATES VARY AND THAT EACH CATEGORY OF WEAPONS UNDER CONSIDERATION IS VITAL TO SOME STATES. IT CANNOT BE EXPECTED THAT THEY WILL GIVE UP WEAPONS VITAL TO THEIR SECURITY. SECOND INTERVENTION SUGGESTED THAT, ALTHOUGH NOT WITHIN SCOPE OF CONFERENCE, WEAPONS OF MASS DESTRUCTION, HAVE A RELATIONSHIP TO CONVENTIONAL WEAPONS AND CANNOT BE IGNORED. APPROPRIATE FORUM FOR CONSIDERING THIS RELATIONSHIP IS WDC. FRG
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EXPRESSED ITS CONCURRENCE IN BELIEF SOVIETS REFERRING TO CCD.

10. SWEDES AND SOME OTHERS SUGGESTED NEED FOR DEVELOPING MORE OBJECTIVE CRITERIA OF UNNECESSARY SUFFERING COUCHED IN TERMS OF MEDICAL EFFECTS, DEGREE OF DISABILITY, RISK OF DEATH, OVERBURDENING MEDICAL RESOURCES AND PUBLIC OPINION. THESE DID NOT ACHIEVE SUBSTANTIAL SUPPORT.

11. PICTET SUGGESTED CREATION OF WORKING GROUP ON CRITERIA IN ORDER TO DRAW CONCLUSIONS FROM DEBATE. US OPPOSED THIS AS PREMATURE AND, WHILE NOT EXCLUDING CREATION OF WORKING GROUPS AT LATER TIME ON SPECIFIC WEAPONS ISSUES, THOUGH WORKING GROUP ON ABSTRACT

LEGAL ISSUES DEFUSED FOCUS ON CONFERENCE. WHILE SOME
SUPPORTED CREATION OF WG, PREPONDERANCE OF OPINION
WAS IN LINE WITH US VIEW, AND BUREAU DECIDED NOT TO
ESTABLISH WORKING GROUP AT THIS POINT.

12. COPIES OF US INTERVENTION AND UK PAPER ON
CRITERIA BEING POUCHED ALDRICH (L).
PERCIVAL

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